IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1564 OF 2001

Life Insurance Corporation of India ...Petitioner

V/s

1. Smt. Kuldip Kaur Singh,
since deceased, legal heirs
1a) H.N. Singh and Ors. ...Respondents.

Mr. V.Y. Sanglikar for the petitioner.
Mr. D.F. Sharma for the respondents.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.
DATE : 5th June, 2006

P.C.:

1. By this Petition, the petitioner - Life Insurance Corporation of India has challenged the order dated 16/1/2001 passed by the Principal Judge, City Civil & Sessions Court, Bombay in exercise of his powers under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 whereby the appeal from order of eviction by Estate Officer is to be heard by the learned Principal Judge.

2. The proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were

commenced against the respondents and the Estate Officer, after following the due process of law, ordered eviction of the respondents from the suit premises. Appeal was, therefore, filed before the Principal Judge, City Civil Court, Bombay and it was decided by the impugned order.

3. The learned Principal Judge has allowed the appeal on the ground that the landlord in this case i.e. the Life Insurance Corporation of India has failed to prove that the premises were not used by the occupants for a period of six months and more continuously.

4. This is obviously a requirement under the Bombay Rent Act, 1947 where eviction of duly acknowledged tenant is sought. These provisions by very nature of things cannot be applied to eviction proceedings commenced under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. This being the legal position, the impugned order, obviously, is untenable. The same is set aside and the matter is remitted back to the City Civil court for being decided in accordance with law as early as possible, preferably in two months from the date of receipt of this order.

5. The observations made herein are only in relation to the maintainability of the appeal or application under the Bombay Rent Act. The other contentions shall remain open to the contesting parties.

6. Petition is accordingly disposed of.

(V.G.PALSHIKAR, J.)

(V.M. KANADE, J.)